

**Special Courts Committee
Judicial Conference of Indiana**

November 30, 2007
Minutes

1. Members present. The following members of the committee were present Kenneth Abbott, Richard Campbell, Randy Coffey, Jennifer DeGroote, Glenn Hancock, Michael Pagano, Marc Rothenberg, Richard Tandy, and Peggy Quint Lohorn, Chair.
2. Staff present. Michelle C. Goodman provided the Committee with staff assistance.
3. Guest. Senior Judge John Kellam.
4. Approval of minutes. The Committee approved the minutes from the May 2007 meeting.
5. Court structure discussion. The Committee received a law review article and a letter containing feedback on the Committee's work to date on court structure matters. Judge Lohorn indicated that she was still checking to see if this topic will be on the agenda for the Spring District Meetings in 2008. Judge Lohorn also reported that she and Judge Kellam were part of a planning committee discussing the distribution of Title IV-D moneys to the courts. The planning committee discussed having money designated for education/scholarship program, statewide study of court system, and local studies to bring about positive changes. Some ideas discussed include receiving proposals on unifying budgets & resources, small county plans (i.e. joint efforts, etc.), and district plans. The Committee was asked to contact Judge Lohorn with other ideas or proposals.
6. Discussion on Small Claims Rules. The Committee discussed a number of issues with several Small Claim Rules.
 - a. Small Claims Rule 2(B)(3). The Committee discussed the fact that the notice requires a trial date and whether it was appropriate to have an admit/deny date instead. Several members discussed how they calendar and process small claims cases. The discussion yielded a variety of procedures and highlighted the issue with the fixed timeline within the rule. The Committee discussed that changes to this rule will also impact S.C.R. 10 on default. The Committee requested staff to draft a proposed rule amendment to S.C.R. 2(B)(3) removing the trial language and include language from S.C.R. 8(A) on expeditious setting in place of the time limit. The Committee also requested a corresponding draft amendment to S.C.R. 10.
 - b. Small Claims Rule 5. The Committee discussed the issue of counterclaims and whether some types of counterclaims should be mandatory. The Committee determined that mandating counterclaims could be confusing to litigants and create a more complicated set of rules, which may be cumbersome for pro se litigants.
 - c. Small Claims and Attorneys fees. The Committee discussed the issue of whether attorney fees should be within the jurisdictional limit or in addition to the

jurisdictional limit. The Committee thought it would be best to have the attorney fees within the jurisdictional limits. The Committee requested staff to draft proposed rule or statutory changes for review at the next meeting on this issue.

- d. Small Claims Rule 8(C). The Committee discussed whether the amount should be increase for corporations who can appear without an attorney and if other types of entities should be included in the category with corporations (i.e. LLC, LLP, etc.) regarding when counsel is required. The Committee felt that the amount to appear without counsel should be increased. The Committee decided to compile a survey on these issue and receive feedback from the judges before making more specific recommendations.
 - e. Small Claims Rule 11(f). The Committee requested the staff work with Mag. Pagano on this issue and place it on the agenda for the next meeting for discussion.
7. 2008 meeting schedule. The Committee asked staff to select the meeting dates for 2008 and e-mail them to the Committee as soon as possible. All meetings will be held at the Indiana Judicial Center at 11 a.m.

Respectfully submitted,

Michelle C. Goodman
Staff Attorney